

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

CHERYL N. INMON,

Case No. 1:15-cv-00982-CL
ORDER

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner, Social Security
Administration,

Defendants.

Aiken, Judge:

Magistrate Judge Clark issued Findings and Recommendation in the above-captioned cases, recommending that plaintiff's application for attorney fees be granted. The matter is now before me. *See* 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). When either party objects to any portion of a magistrate judge's Findings and Recommendation, the district court must make a de novo determination of that portion of the magistrate judge's report. 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines, Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Defendant filed objections to the Findings and Recommendation.

Upon de novo review, I find no error. The record does not demonstrate that counsel's advocacy for her client was made in bad faith or contributed significantly to the ALJ's error. To the contrary, error could have been avoided by a simple continuance of the administrative hearing rather than the evident hostility directed at counsel during the hearing. This is particularly true in light of the ALJ's duty to a claimant; it is not an adversarial relationship. *Tonapetyan v. Halter*, 242 F.3d 1144, 1150 (9th Cir. 2001) (an ALJ has an "independent duty" to "assure that the claimant's interests are considered," a duty that "extends to the represented as well as to the unrepresented claimant") (citation omitted).

Accordingly, IT IS HEREBY ORDERED that Magistrate Judge Clarke's Findings and Recommendation (doc. 25) is ADOPTED in its entirety. Plaintiff's Application for Fees and Motion to Amend (docs. 21, 22) are GRANTED, and plaintiff is awarded fees in the amount of \$6,784.50.

IT IS SO ORDERED.

Dated this 07 day of November, 2016.


Ann Aiken
United States District Judge